

### **REMARKS**

With the foregoing amendment claims 1-48 are pending in the application. Claims 1, 12, 16, 18, 27, 29 and 36 are independent. No Previously Presented matter has been added by the amendments. Applicants respectfully request reconsideration of the Rejections/Objections, which are discussed below.

#### **In-Person Examiner Interview**

Applicant and their representative, Brian Rosenbloom, thank Examiner Ford and his supervisor for the courtesies extended during the in-person interview on February 24, 2009. At the interview, we articulated our position that that art does not disclose updating a profile in response to a user indicating that he/she likes or dislikes a "broadcast recording," as that term is properly construed. Properly construed, a "broadcast recording" is a recording that is transmitted simultaneously to two or more receivers. Examiner Ford suggested that we amend the claim to make this explicit and that doing so would greatly help distinguish the claimed invention from the De Bonet patent and the other patents cited by the Office to reject the claims.

#### **Allowable Subject Matter**

Applicants thank the Examiner for indicating that claim 31 would be allowable if re-written in independent form.

#### **First Rejection of Claims under 35 U.S.C. §103**

Claims 1-4, 6-10, 16-21, 23-26, 29-30, 32-35, 36-39, 41-45 and 47-48 stand rejected under 35 U.S.C. 103 as being unpatentable over Leeke (US 6,587,127) in view of Ward (US 6,526,411), Cluts (US 5,616,876), and De Bonet (US 6,985,694) (collectively referred to as the "Art"). Applicants respectfully disagree.

Independent Claim 1

With respect to independent claim 1, claim 1 is patentable over the Art because the Art, considered alone or in combination, does not teach or suggest all of the elements of claim 1. For example, at the least, the Art does not disclose:

- [a] transmitting a broadcast recording over a broadcast channel, wherein the step of transmitting the broadcast recording over the broadcast channel comprises transmitting the broadcast recording to a plurality of unspecified receivers simultaneously;
- [b] while the broadcast recording is being transmitted, receiving an indication from a user of a receiver tuned to the broadcast channel that the user likes the broadcast recording; and
- [c] modifying at least one of the one or more channel profiles in response to receiving the indication that the user likes the received broadcast recording.

as is recited in claim 1.

At best, the Art cited by the Office merely discloses systems that stream tracks of music to a specified receiver and enables a user of the receiver to indicate whether he/she likes or dislikes the track currently being transmitted. That is, none of the references discloses transmitting a track over a broadcast channel “to a plurality of unspecified receivers simultaneously [and,] while the broadcast recording is being transmitted, receiving an indication from a user of a receiver tuned to the broadcast channel that the user likes the broadcast recording.”

Independent Claim 16

Like claim 1, claim 16 requires the steps of “transmitting a broadcast recording over a broadcast channel, wherein the step of transmitting the broadcast recording over the broadcast channel comprises transmitting the broadcast recording to a plurality of unspecified receivers simultaneously; [and] enabling the user to indicate that the user likes or does not like the broadcast recording while the broadcast recording is being transmitted over the broadcast channel.” Accordingly, for the reason give above with respect to claim 1, claim 16 and all of its dependents are patentable over the Art.

Independent Claim 18

Claim 18 is similar to claim 1. Thus, the above remarks for claim 1 apply to claim 18 and all of its dependent claims.

Independent Claim 29

Claim 29 is similar to claim 16. Thus, the above remarks for claim 16 apply equally to claim 29 and all of its dependent claims.

Independent Claim 36

Like claim 1, claim 36 requires, “transmitting a recording over a broadcast channel to a plurality of unspecified receivers simultaneously, thereby enabling any device tuned to the broadcast channel to play the broadcast recording for a user; [and] receiving an indication that the user likes the received broadcast recording while the broadcast recording is being transmitted over the broadcast channel.” Thus, the remarks for claim 1 apply to claim 36.

**Second Rejection of Claims under 35 U.S.C. §103**

Claims 5, 22 and 40 stand rejected under 35 U.S.C. 103 as being unpatentable over Leeke, Ward, Cluts, De Bonet and Hempleman (US 6,243,725) (collectively referred to as the “Art”). Applicants respectfully disagree.

Dependent Claims 5, 22 and 40

Claims 5, 22, and 40 depend from claims 1, 18, and 36, respectively. Accordingly, claims 5, 22, and 40 are patentable for at least the reasons given above with respect to claims 1, 18, and 36.

**Third Rejection of Claims under 35 U.S.C. §103**

Claims 11 and 46 stand rejected under 35 U.S.C. 103 as being unpatentable over Leeke, Ward, Cluts, De Bonet and Mankovich (US 2003/0097338) (collectively referred to as the “Art”). Applicants respectfully disagree.

Dependent Claims 11 and 46

Claims 11 and 46 depend from claims 1 and 36, respectively. Accordingly, claims 11 and 46 are patentable for at least the reasons given above with respect to claims 1 and 36.

**Fourth Rejection of Claims under 35 U.S.C. §103**

Claims 12-14 and 27-28 stand rejected under 35 U.S.C. 103 as being unpatentable over Leeke, Ward, Cluts, De Bonet and Launchcast. Applicants respectfully disagree.

**Independent Claim 12**

Similarly to claim 1, claim 12 requires the step of “transmitting a broadcast recording over a broadcast channel, wherein the step of transmitting the broadcast recording over the broadcast channel comprises transmitting the broadcast recording to a plurality of unspecified receivers simultaneously; [and] enabling the user to indicate that the user likes or does not like the received broadcast recording while the broadcast recording is being transmitted over the broadcast channel.” Accordingly, for the reason give above with respect to claim 1, claim 12 is patentable over the Art.

**Independent Claim 27**

Claim 27 is similar to claim 12. Thus, the above remarks for claim 12 apply equally to claim 27.

**Fifth Rejection of Claims under 35 U.S.C. §103**

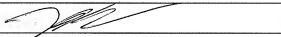
Claim 15 stands rejected under 35 U.S.C. 103 as being unpatentable over Leeke, Ward, Cluts, Launchcast, De Bonet and Mankovich. Applicants respectfully disagree. Claim 15 depends from claim 12 and, therefore, is patentable over the Art for at least the same reasons given above with respect to claim 12.

**CONCLUSION**

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections, and that they be

withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

<b>RESPECTFULLY SUBMITTED,</b>			
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